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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

LUIZA COLE, individually, and RUTH
MCKNIGHT, individually, on behalf of
themselves and all those similarly situated,

Plaintiffs,

vs.

COUNTY OF ORANGE,

Defendant.

Case No. 8:18-cv-01020-DOC-KES

**PLAINTIFFS' UNOPPOSED MOTION
FOR APPROVAL OF SETTLEMENT
OF FLSA COLLECTIVE ACTION
AND REQUEST FOR ATTORNEYS'
FEES, COSTS AND INCENTIVE
AWARDS**

Date: May 18, 2020
Time: 8:30 a.m.
Ctrm.: 9D

Action Filed: June 11, 2018

I. INTRODUCTION

This case concerns Defendant County of Orange’s (“Defendant”) alleged failure to pay overtime wages for all overtime hours worked by Senior Social Workers (“SSWs”) in the Emergency Response section (“ER”) of Defendant’s Children & Family Services Division.

On May 13, 2019, this Court entered an order conditionally “certifying” this case as a collective action under the Fair Labor Standards Act (the “FLSA”). (Doc. 53.) The Court further directed notice be issued to the current and former SSWs in the ER section so they may have the opportunity to “opt-in” to this collective action. (*Id.*) As a result of this process, 13 individuals “opted in” to the collective action (the “Opt-In Plaintiffs”), in addition to the two named Plaintiffs -- Luiza Cole (“Cole”) and Ruth McKnight (“McKnight”) (the “Named Plaintiffs.”). (Declaration of Scott Sims (“Sims”), ¶ 8; Doc. 60.)

On November 20, 2019 and February 5, 2020, the Parties appeared before the Honorable Thierry Patrick Colaw (Ret.) to mediate this matter. (Sims, ¶¶ 8-9.) At the second session, the Parties agreed to settle this action on the terms set forth in the attached Settlement Agreement (Exhibit A.) The Settlement Agreement has been approved and executed by the Named Plaintiffs and every Opt-In Plaintiff. (Sims, ¶ 8.) It also been approved by Defendant’s Board of Supervisors. (*Id.*)

The Settlement Agreement provides as follows:

1. Defendant will place \$837,100.00 into a Settlement Fund.
2. Each Named Plaintiff and each Opt-In Plaintiff will receive a settlement payment of \$40,000.00, for total settlement payments to Plaintiffs of \$600,000.00. This represents approximately half of each employee’s yearly salary. (Sims, ¶ 12 and Exh. B.)
3. Each Named Plaintiff may request, without objection from Defendant, an incentive award of \$5,000.00 (for a collective total of \$10,000.00) for their efforts and services in leading this action, subject to Court approval.

- 1 4. Plaintiffs' Counsel may request an award of \$250,000.00 in attorneys' fees,
2 without objection from Defendant and subject to Court approval.
- 3 5. Plaintiffs' Counsel may seek reimbursement of costs of \$13,100.00 without
4 objection from Defendant and subject to Court approval.
- 5 6. To the extent the Court awards less than the requested amounts for attorneys'
6 fees, costs and incentive awards, then such amounts will revert back to
7 Defendant.
- 8 7. In exchange for the above consideration, each Named Plaintiff and each Opt-
9 In Plaintiff will dismiss their claims with prejudice and release Defendant
10 from all claims asserted in the operative Second Amended Complaint (the
11 "SAC"), as well as any other claims that could have been asserted based on
12 the allegations in the SAC.

13 This Settlement provides an excellent result for the Named and Opt-In Plaintiffs. They
14 faced significant challenges in this action. To prevail Plaintiffs were required to prove
15 that (a) they are "non-exempt" employees under the FLSA and not subject to the
16 FLSA's "learned professional" exception; (b) they were working uncompensated
17 overtime hours; and (c) they were working the uncompensated overtime hours with
18 Defendant's knowledge. Plaintiffs also faced the difficulty of proving the number of
19 uncompensated hours they worked, an issue exacerbated by the lack (according to
20 Plaintiffs) of accurate time records. Those issues presented a substantial risk for
21 Plaintiffs not only on the merits, but also of "decertification" of collective action
22 treatment. (See Eldard v. County of Los Angeles, 2011 WL 13175660 (C.D. Cal. Feb.
23 17, 2011) (decertifying FLSA collective action on behalf of social workers).

24 The statute of limitations in this case is either two years from the date the
25 member opts in, or three years if Plaintiffs could establish "willful" misconduct by
26 Defendant. (29 U.S.C. § 255.) In this context, for each member to receive more than
27 half of one-year's salary in damages -- the average SSW makes approximately
28 \$60,000.00 to \$80,000.00 per year -- is a tremendous outcome. (Sims, Exh. B.)

1 A \$5,000 incentive award to each of the Named Plaintiffs is fair, reasonable and
2 appropriate. (Sims, ¶ 30; Declaration of Luiza Cole (“Cole”), ¶¶ 2-5; Declaration of
3 Ruth McKnight (“McKnight”), ¶¶ 2-5.) The Named plaintiffs took tremendous risks in
4 suing their employer and spent considerable amount of time assisting counsel on this
5 case, responding to discovery, actively participating in settlement negotiations and
6 notifying fellow employees about the case. (*Id.*)

7 The requested attorneys’ fees of \$250,000.00 and costs of \$12,484.75 are also
8 fair, reasonable and appropriate.¹ (Sims, ¶ 28; Declaration of Kristopher Badame
9 (“Badame”), ¶ 13-15.) Plaintiffs’ counsel spent over 465 hours litigating this case.
10 (*Id.*) The requested fees are less than their lodestar of \$369,123.50 -- and thus represent
11 a *negative* lodestar multiplier of 1.48. (*Id.*) These fees also represent less than 30% of
12 the settlement fund. (Sims, ¶ 29.)

13 Accordingly, as recognized by all affected parties, each of whom signed the
14 Settlement Agreement, the Settlement, including the requested fees, costs and incentive
15 awards, is fair, reasonable and adequate and the Court should grant approval.

16 **II. STATEMENT OF FACTS**

17 **A. Plaintiffs’ Claims.**

18 Plaintiffs allege Defendant failed to pay SSWs for the full amount of their
19 overtime hours in violation of the Fair Labor Standards Act, 29 U.S.C. § 203 *et seq.* (the
20 “FLSA”). Specifically, Plaintiffs contend Defendant knows the workload assigned to
21 SSWs cannot be completed in a 40-hour workweek and, in many instances, instruct
22 SSWs not to record their overtime hours. Defendant denied, and continues to deny,
23 these allegations.

24
25
26 ¹ The requested costs reflect Plaintiffs’ Counsel’s actual out-of-pocket costs and are
27 slightly lower than the amount Counsel could seek under the Settlement Agreement.
28 The reason is that after the parties reached terms, Defendant agreed to pay the cost of
settlement administration directly to the settlement administrator, such that Counsel is
not having to advance those costs.

B. Procedural History.

Plaintiff Cole filed the initial Complaint in this action on June 11, 2018. (Doc. 1.). A First Amended Complaint (“FAC”) adding Plaintiff McKnight was filed on November 30, 2018. (Doc. 29.) Defendant filed a motion to dismiss the FAC on January 4, 2019. (Doc. 31.) Plaintiff opposed the motion on January 22, 2019. (Doc. 37.) The Court denied the motion in part and granted in part on March 27, 2019. (Doc. 44.) In response, Plaintiff filed the operative Second Amended Complaint (“SAC”) on April 10, 2019 addressing the issues raised in the Court’s ruling. (Doc. 48.)

Plaintiffs filed a motion for preliminary “certification” of a collective action on March 11, 2019 (Doc. 42), a reply in support of the motion on April 8, 2019 (Doc. 47) and a response to Defendant’s sur reply on April 29, 2019 (Doc. 51). The Court granted the certification motion on May 14, 2019. (Doc. 53.).

As this is a collective action under the FLSA, the members of the putative “class” are required to affirmatively “opt-in” to participate in the action. (29 U.S.C. § 216(b); Campbell v. City of Los Angeles, 903 F.3d 1090, 1100 (9th Cir. 2018).) Accordingly, notice was sent to the putative members on or about July 29, 2019 advising them of their eligibility to opt-in to the collective action. (Sims, ¶ 9; Docs. 53, 60.) In response, 13 individuals opted-in: Denise Cornejo, Mariela Flores, Martha Garduno, Consuelo Gomez, LaToya McDavis, Daisy (Mejia) Rivera, Sarah Mendoza, Daisy Perez, Linda S. Rodriguez, Maria Ruberio, Charmaine Taguinad, Michelle Tolosa, and Junko Tominaga. (Id.)

The Named Plaintiffs and their counsel also conducted and responded to significant written discovery. (Sims, ¶ 17; Badame, ¶ 11; Cole, ¶ 4; McKnight, ¶ 4.) That included interrogatories, requests for production, the deposition of the Named Plaintiffs’ immediate supervisor Lisa Delamater, and the review of thousands of pages of documents. (Id.)

On February 12, 2020, the Parties filed a joint notice of a potential settlement subject to the approval of Defendant’s Board of Supervisors and requested the Court

1 vacate all pending court dates and deadlines. (Doc. 58.). On February 13, 2020, this
2 Court granted the request to vacate the dates and set a status conference for June 15,
3 2020 at 8:30 am. (Doc. 59.) On April 14, 2020 Defendant's Board of Supervisors
4 approved the settlement.

5 **C. The Mediation and Settlement.**

6 On November 20, 2019, the Parties attended a settlement mediation before the
7 Honorably Thierry Patrick Colaw (Ret.). (Sims, ¶ 9.) The parties were unable to reach
8 a settlement at that session, but subsequently agreed to a second mediation session on
9 February 5, 2020. (Id., ¶ 9.)

10 At the second session, the Parties reached a settlement whereby each Named
11 Plaintiff and each Opt-In Plaintiff would receive a settlement payment of \$40,000.00,
12 for a collective total of \$600,000.00. (Sims, ¶¶ 9, 10 and Exh. A.) The Parties further
13 and separately negotiated attorneys' fees, costs and incentive awards with the assistance
14 of Judge Colaw. (Id.) Defendant agreed it would not oppose a request for attorneys'
15 fees up to \$250,000, costs up to \$13,100 and incentive awards to the two named
16 plaintiffs up to \$5,000 each. (Id.) In exchange for the above consideration, the Named
17 and Opt-In Plaintiffs agreed they would dismiss their claims with prejudice and release
18 Defendant from all claims asserted in the SAC, as well as any other claims that could
19 have been asserted based on the allegations in the SAC. (Id.). The Parties entered a
20 short-form stipulation of settlement at the mediation and agreed to formalize such terms
21 in a long-form settlement agreement. (Id.)

22 The Parties thereafter prepared the attached Settlement Agreement (Exhibit A)
23 and presented it to their respective clients. (Sims, ¶¶ 9-10.) All 15 members of the
24 collective action (including the two Named Plaintiffs and all 13 Opt-In Plaintiffs)
25 approved the terms of the Settlement and executed the agreement. (Id.) Defendant's
26 Board of Supervisors approved the Settlement on April 14, 2020. (Id.)

1 **III. THE COURT SHOULD APPROVE THE SETTLEMENT**

2 **A. Legal Standard.**

3 An employee may settle and waive claims under the FLSA if a district court
4 approves the settlement. (Lynn’s Food Stores, Inc. v. United States, 679 F.2d 1350,
5 1353 (11th Cir. 1982).) “Because ‘[t]he Ninth Circuit has not established the criteria
6 that a district court must consider in determining whether a FLSA settlement warrants
7 approval,’ district courts in this Circuit widely follow the Eleventh Circuit’s Lynn’s
8 Food Stores standard.” (Campanelli v. Image First Healthcare Laundry Specialists,
9 Inc., 2019 WL 1925494, *1 (N.D. Cal. April 30, 2019).)

10 Under Lynn’s Food Stores, a district court may approve an FLSA settlement
11 when it reflects a “fair and reasonable resolution of a bona fide dispute over FLSA
12 provisions.” (Lynn’s Food Stores, 679 F.2d at 1354-55; Campanelli v. Hershey Co.,
13 2011 WL 3683597, at * 1 (N.D. Cal. May 4, 2011) (approving individual settlements in
14 FLSA collective action, where “payments are the result of arms-length negotiations
15 between [the defendant] and the 120 plaintiffs who are represented by counsel, and who
16 have all expressly consented to the settlement.”) If the settlement reflects a reasonable
17 compromise over issues that are actually in dispute, the Court may approve the
18 settlement “in order to promote the policy of encouraging settlement of litigation.”
19 (Lynn Food Stores, 679 F.2d at 1354.)

20 **B. There is a Bona Fide Dispute Between the Parties.**

21 As this Court recognized when it denied Defendant’s motion to dismiss and
22 granted preliminary certification of a collective action, there is a bona fide dispute
23 between the Parties as to whether Defendant is violating the FLSA by failing to pay
24 SSWs for all of their overtime hours. (Doc. 44, 53.) The allegations in dispute are set
25 forth in detail in the operative SAC. (Doc 48). Supporting evidence related to
26 Plaintiffs’ allegations is set forth in their Motion for Preliminary Certification of FLSA
27 Collective Action. (Doc. 42.)
28

C. The Settlement is Fair and Reasonable.

To determine whether the settlement is fair and reasonable, district courts look to the “totality of the circumstances” and the “purposes of the FLSA.” (Selk v. Pioneers Mem’l Healthcare Dist., 159 F.Supp.3d 1164, 1173 (S.D. Cal. 2016). Courts consider the following factors: (1) the plaintiff’s range of possible recovery; (2) the stage of the proceedings and amount of discovery completed; (3) the seriousness of the litigation risks faced by the parties; (4) the scope of any release provision in the settlement agreement; (5) the experience and views of counsel and the opinion of the participating plaintiffs; and (6) the possibility of fraud or collusion. (Id.) Based on these factors, the settlement should be approved.

1. The Plaintiff’s Range of Possible Recovery.

“The FLSA requires covered workers to be paid at least 1.5 times their normal rate for all work in excess of forty hours weekly, provided the employer has actual or constructive knowledge that the work is occurring.” (Campbell, 903 F.3d at 1102.) “Employers who violate this requirement are liable for damages in the amount of unpaid overtime, ‘an additional equal amount as liquidated damages,’ and reasonable attorney’s fees ... and costs.” (Id. (citing 29 U.S.C. § 216(b)).) The statute of limitations is two years, unless Plaintiffs can establish willfulness, in which case the limitations period is three years. (29 U.S.C. § 255(a).)

The average hourly rate for the members of this collective action is approximately \$34.00. (Sims, Exh. B.) The evidence developed to date is that Plaintiffs worked an average range of 5 to 10 hours of uncompensated overtime per week. (Sims, ¶ 13.) If each employee worked an average of 5 hours of overtime per week over the two-year statute of limitations period, then their total damages would be approximately \$51,000 per member ((((\$34.00 x 1.5) x 2) x 5 hours x 100 weeks). (Id.) If each employee worked an average of 10 hours of overtime per week during that same period, then their total damages would be approximately \$102,000.00. (Id.)

1 In comparison, this settlement provides \$40,000.00 for each of the 15 members of
2 the collective action. (Settlement, § 1(a)(i).) This amounts to either 78% of each
3 member's total possible recovery (assuming 5 hours of overtime per week) to 39% of
4 the total possible recovery (assuming 10 hours of overtime per week). (Sims ¶ 14.)
5 This far exceeds the standard settlement amounts courts find fair and reasonable.² (See
6 Glass v. UBS Fin Servs., Inc., 2007 WL 221862, at *4 (N.D. Cal. Jan. 26, 2007) aff'd
7 331 F. App'x 452 (9th Cir. 2009) (finding a wage and hour case settling at 25% to 35%
8 of the total possible recovery was reasonable); Greer v. Pac. Gas & Elec. Co., 2018 WL
9 2059802, at *8 (E.D. Cal. May 3, 2018) (finding settlement that provided 30% of
10 estimated total possible recovery was reasonable).) Accordingly, this factor weighs
11 heavily in favor of settlement approval.

12 2. The Stage of the Proceedings and Amount of Discovery Completed.

13 “The Court assesses the stage of proceedings and the amount of discovery
14 completed to ensure the parties have an adequate appreciation of the merits of the case
15 before reaching a settlement.” (Saleh v. Valbin Corp., 2018 WL 6002320, at *3 (N.D.
16 Cal. Nov. 15, 2018).) In the present case, the parties have engaged in discovery
17 including interrogatories, document productions, and the deposition of a key witness
18 who supervised the Named Plaintiffs and many of the Opt-In Plaintiffs. (Sims ¶ 15.)
19 Furthermore, the Parties fully briefed, and the Court ruled on the collective action
20 certification. (Doc. 53.) Moreover, the Parties exchanged additional information
21 during the confidential mediations and had the benefit of having their claims and legal
22 arguments evaluated by Judge Colaw during the two full-day mediation sessions. (Sims
23 ¶ 15.) As such, the Parties have a very good sense of the merits of their respective
24

25 ² If Plaintiffs were able to establish “willfulness” such that a three-year statute of
26 limitations applies, then each member's total possible recovery would \$76,500.00
27 (assuming 5 hours of overtime per week) or \$153,000 (assuming 10 hours of overtime
28 per week). (Sims ¶ 14.) The \$40,000.00 settlement payment would, thus, equal 52% of
the total possible recovery (assuming 5 hours overtime per week) or 26% of the total
possible recovery (assuming 10 hours per week.), which are also reasonable when
compared to the total possible recovery. (Glass, 2007 WL 221862, at *4.)

positions. (*Id.*) Thus, this factor also weighs in favor of approval of the settlement. (*Saleh*, 2018 WL 6002320, at *4.)

3. The Seriousness of the Litigation Risks Faced by the Parties.

This factor favors approving a settlement when “there is a serious risk that litigation might result in a lesser recover[y] for the class or no recovery at all.” (*Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 255 (N.D. Cal. 2015).) The present case presents substantial obstacles for Plaintiffs’ recovery.

First, Plaintiffs cannot prevail on their claims unless they are “non-exempt” employees under the FLSA. Defendant disputes that Plaintiffs are “non-exempt” and asserted that as an affirmative defense. (Dkt. No. 50 at Sixth Affirmative Defense.) Defendant contends Plaintiffs fall within the FLSA’s “learned professional” exemption. (*See* 29 C.F.R. §§ 541.300 - 541.301.) Generally speaking, the exemption applies when “an employee’s primary duty must be the performance of work requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction.” (*Id.*) This issue has been litigated in a case involving social workers in the State of Washington and was found to be a question of fact. (*See Solis v. State of Washington Dep’t of Soc. & Health Servs.*, 2016 WL 879166, at *3 (W.D. Wash. Mar. 8, 2016). Accordingly, though Plaintiffs believe Defendant’s “learned professional” defense lacks merit, this issue presented a case-dispositive risk for Plaintiffs. (*Sims*, ¶ 17.)

Second, to prevail Plaintiffs were required to prove they worked *uncompensated* overtime hours. Plaintiffs conceded Defendant compensated for some overtime hours, but Plaintiffs contended Defendant did not compensate them for all overtime hours. (*Sims*, ¶ 18.) To support their defense, Defendant was expected to point to (a) paying SSWs thousands of hours of overtime during the statute of limitations period³ and (b)

³ Defendant contended Plaintiffs fall within the “learned professional exemption” of the FLSA such that overtime under the FLSA is not required, but that they nonetheless paid overtime pursuant to a Memorandum of Understanding (“MOU”), a claim for breach of which would require the exhaustion of administrative remedies. (*Sims*, ¶ 18.)

1 evidence that they paid Plaintiffs for all hours Plaintiffs recorded on their timecards.
2 (Id.) To overcome that evidence, Plaintiffs intended to demonstrate that (a) they were
3 encouraged not to record all of their hours worked; (b) were discouraged from
4 requesting overtime in almost all circumstances and (c) the job cannot reasonably be
5 performed in the number of hours on their timesheets. (Id.) The issue, however, was
6 likely to turn on credibility and disputed expert testimony, and thus presented a
7 substantial trial risk for Plaintiffs. (Id.)

8 Third, even if Plaintiffs proved they worked uncompensated overtime, they also
9 had to prove Defendant *knew* they were working uncompensated overtime. That is,
10 “[t]o violate FLSA, the employer must have actual or constructive knowledge that its
11 employees performed work without being compensated. (Lillehagen v. Alorica, Inc.,
12 2014 WL 6989230, at *16–19 (C.D. Cal. Dec. 10, 2014).) “[W]here an employer has
13 no knowledge that an employee is engaging in overtime work and that employee fails to
14 notify the employer or deliberately prevents the employer from acquiring knowledge of
15 the overtime work, the employer's failure to pay for the overtime hours is not a violation
16 of [the FLSA].” (Id. (quoting Forrester v. Roth’s I.G.A. Foodliner, Inc., 646 F.2d 413,
17 414 (9th Cir. 1981).) Here, Defendant argued it did not know, or have reason to know
18 that Plaintiffs were working overtime hours because Plaintiffs’ time records did not
19 record the overtime hours claimed in this lawsuit. (Sims, ¶ 19.) Defendant was also
20 expected to support that argument by pointing to the amount of overtime it did pay
21 Plaintiffs. (Id.) This issue thus presented a significant risk for Plaintiffs. (Id.)

22 Fourth, even if Plaintiffs showed they worked some uncompensated overtime
23 hours, Plaintiffs faced obstacles proving the number of those uncompensated overtime
24 hours worked. (Sims, ¶ 20.) Defendant, again, was expected to point to Plaintiffs’ time
25 records, whereas Plaintiffs would point to representative testimony and argue Defendant
26 discouraged accurate recordkeeping and that the burden of disproving damages properly
27 lied with Defendant pursuant to Anderson v. Mt. Clemens Pottery Co., 328 U.S. 680,
28 687 (1946). (Id.) Those issues, however, would have been heavily contested. (Id.)

1 Fifth, Plaintiffs faced the risk of “decertification” of the collective action. (Sims,
2 ¶ 21.) In fact, that is exactly what happened in Eldard, 2011 WL 13175660, an FLSA
3 class action filed on behalf of social workers in Los Angeles. (Id.)

4 Thus, this factor likewise weighs in favor of settlement approval. (Saleh, 2018
5 WL 6002320, at *4.)

6 4. The Scope of Any Release Provision in the Settlement Agreement.

7 In the Ninth Circuit, a federal court may approve a settlement that releases “not
8 only those claims alleged in the complaint, but also a claim ‘based on the identical
9 factual predicates as that underlying the claims in the settled class action.’” (Reyn’s
10 Pasta Bella, LLC v. Visa USA, Inc., 442 F.3d 741, 748 (9th Cir. 2006).) In the present
11 settlement, the release is limited to only those 15 members who participated in the
12 collective action, and only includes the claims asserted in the operative SAC, and those
13 claims that “could otherwise be asserted based on the allegations in the [SAC].”
14 (Settlement, § 2(b).) Accordingly, this limited release weighs in favor of settlement
15 approval. (Saleh, 2018 WL 6002320, at *4.)

16 5. The Experience and Views of Counsel and the Opinion of the
17 Participating Plaintiffs.

18 In determining whether a settlement is fair and reasonable, “[t]he opinions of
19 counsel should be given considerable weight both because of counsel’s familiarity with
20 th[e] litigation and previous experience with cases.” (Saleh, 2018 WL 6002320, at *4.)
21 Plaintiffs are represented by highly experienced counsel that specializes in complex
22 litigation, including wage and hour class actions. (Sims, ¶¶ 2-7, Badame, ¶¶ 2-10.) In
23 Counsel’s opinion, the settlement is “fair and reasonable” and provides an excellent
24 result for the Named and Opt-In Plaintiffs. (Sims, ¶ 11; Badame, ¶ 12.) In addition,
25 each of Named and Opt-In Plaintiffs has expressly approved the terms of the settlement.
26 (Sims, Exh. A.) Thus, this factor weighs heavily in favor of settlement approval.
27 (Saleh, 2018 WL 6002320, at *4.)
28

6. The Possibility of Fraud or Collusion.

“The likelihood of fraud or collusion is low [when] the Settlement was reached through arm’s-length negotiations, facilitated by an impartial mediator.” (Saleh, 2018 WL 6002320, at *5 (citing City P’ship Co. v. Atl. Acquisition Ltd. P’shp., 100 F.3d 1041, 1043 (1st Cir 1996) (“When sufficient discovery has been provided and the parties have bargained at arms-length, there is a presumption in favor of settlement.”).) In the present case, the Settlement is the product of arms-length negotiation between highly experienced counsel before a highly respected mediator and judge in Judge Colaw. (Sims, ¶¶ 8-9, Badame, ¶ 11.) Further, there are not any “subtle signs” of collusion, because Plaintiffs’ counsel is not receiving a disproportionate distribution of the settlement fund, every party/entity affected by the settlement expressly agreed to the settlement and Plaintiffs’ counsel’s requested fee, and the Named and Opt-In Plaintiffs are receiving significant monetary benefits. As such, this factor likewise weighs in favor of settlement approval.

Overall, in consideration of the totality of the circumstances, this Court should find the proposed Settlement is a fair and reasonable resolution of a bona fide dispute under the FLSA.

D. Class Counsel’s Request for Attorney’s Fees and Costs is Fair and Reasonable.

“Where a proposed settlement of FLSA claims includes the payment of attorney’s fees, the court must also assess the reasonableness of the fee award.” (Selk, 159 F.Supp.3d at 1180.) “Where a settlement produces a common fund for the benefit of the entire class, courts may employ either the lodestar method or percentage of recovery method to determine a reasonable attorney’s fee.” (Id. (citing In re Bluetooth Headset Products Liability Litigation, 654 F.3d 935, 943 (9th Cir. 2011)).) Under the percentage of the benefit method, courts will award attorneys’ fees equal to a percentage of the total value provided or available to the Class. In re Hyundai and Kia Fuel Economy Litig., -- F.3d --, 2019 WL 2376831, at *16 (June 6, 2019). In

1 comparison, under the lodestar method, the court will multiply the number of attorney
2 hours incurred by a reasonable hourly rate. Id. The court may then raise or lower the
3 lodestar based on several factors. Id.; Kerr v. Screen Extras Guild, Inc., 526 F.2d 67, 70
4 (9th Cir. 1975); Fischel v. Equitable Life Assurance Soc’y, 307 F.3d 997, 1007 n. 7.
5 District courts have discretion to employ either the percentage of the benefit method or
6 the lodestar method. In re Hyundai, 2019 WL 2376831, at *16; In re Bluetooth Headset
7 Prod. Liab. Litig., 654 F.3d 935, 942 (9th Cir. 2011).

8 In this Circuit, the “benchmark” award in common fund cases is 25 percent of the
9 recovery obtained, with 20–30 percent as the usual range. (See, e.g., Vizcaino v.
10 Microsoft Corp., 290 F.3d 1043, 1047-48 (9th Cir. 2002); In re Coordinated Pretrial
11 Proceedings in Petroleum Prod. Antitrust Litig., 109 F.3d 602, 607 (9th Cir. 1997)
12 (“common fund fees commonly range from 20% to 30% of the fund created”). “As the
13 Vizcaino court noted, the benchmark rate is a starting point for the analysis, and the
14 selection of the benchmark or any other rate must be supported by findings that take
15 into account all of the circumstances of the case, including the result achieved, the risk
16 involved in the litigation, the skill required and quality of work by counsel, the
17 contingent nature of the fee, awards made in similar cases, and any lodestar crosscheck.
18 (290 F.3d at 1048–50.)

19 In the present case, the Settlement provides for \$250,000.00 in attorneys’ fees.
20 (Settlement, § 1(a)(iii).) This is significantly less than Plaintiff’s counsel’ lodestar of
21 \$369,123.50. (Sims ¶ 28.). In other words, the requested fee represents a *negative*
22 lodestar multiplier of 1.48. (Id.) The requested fee is also less than 30 percent of the
23 total settlement fund of \$873,100.00 and thus in the common 20 to 30 percent range.
24 (Sims, ¶ 29.) This fee award is justified under the criteria set out by the Ninth Circuit.

25 *First*, as established above, counsel achieved an excellent result for the
26 participating members of the collective action. (See, *supra*, § III. C. 1.) Each member
27 is receiving approximately 78% of their total realistic recovery in this case if they
28 prevailed at trial. (Sims ¶ 14.)

1 *Second*, there were serious risks incurred in this litigation and the outcome was
2 highly in doubt. (see, supra, § III. C. 3; Sims, ¶¶ 16-21.)

3 *Third*, Plaintiff’s counsel demonstrated skill in successfully opposing
4 Defendant’s motion to dismiss and obtaining preliminary certification of this matter as a
5 collective action. This required, among other matters, navigating complicated issues
6 concerning the Memorandum of Understanding (“MOU”) between Defendant and the
7 Orange County Employees Association, and its intersection with the FLSA. (Sims, ¶
8 25.) It also required considerable discovery and education about the innerworkings of
9 Defendant’s Children & Family Services Division, and the considerable governmental
10 requirements that SSWs must perform in their day-to-day work. (Id.)

11 *Fourth*, Plaintiff’s counsel handled this case on a contingency basis. They have
12 spent nearly two-years litigating this case without compensation, with no guarantee of
13 recovery unless they obtained a successful outcome for Plaintiffs. (Sims ¶ 26.) “Courts
14 have long recognized the public policy of rewarding attorneys for accepting
15 representation on a contingent fee basis.” (Ogbuehi v. Comcast of California/
16 Colorado/Florida/Oregon, Inc., 2015 WL 3622999, at *11 (E.D. Cal. June 9, 2015).)

17 *Fifth*, the requested fee award is well within the range of fee awards in similar
18 cases. In fact, the fee awards in wage and hour class actions are often 33% or greater.
19 (See, e.g., Hopkins v. Stryker Sales Corp., 2013 WL 496358, at *3 (N.D. Cal. Feb. 6,
20 2013) (citing numerous federal wage and house cases in California with fee awards
21 greater than 33%); Schulein v. Petroleum Dev. Corp., 2015 WL 12762256, at *1 (C.D.
22 Cal. Mar. 16, 2015) (citing Been v. O.K. Industries, Inc., 2011 WL 4478766, at *11
23 (E.D. Okla. 2011) (citing with approval a holding that a multiplier of 2.43 is “per se
24 reasonable” in a nationwide class action settlement”))

25 *Sixth*, the requested fee is fair and appropriate under any lodestar cross-check.
26 Plaintiffs’ counsel’s current lodestar is \$369,123.50, which is greater than the \$250,000
27 in fees they are seeking as part of the Settlement. (Sims ¶ 28.) In other words,
28 Plaintiffs are requesting a *negative* lodestar multiplier of 1.48. (Id.)

1 *Seventh*, Plaintiffs’ counsel’s request for reimbursement of their expenses totaling
2 \$13,100 is fair and reasonable. (Sims, ¶ 28(b).) These costs largely consist of (a)
3 deposition costs; (b) mediation costs; (c) mailing notice of the opt-in forms; and (d) fees
4 related to court filings. (*Id.*)

5 *Eighth*, all of the participating members of the collective action have approved
6 counsel’s request for \$250,000.00 in fees and \$13,100.00 in costs. (Exh. A.)

7 Accordingly, Plaintiffs’ request for fees and costs should be approved by this
8 Court as fair and reasonable.

9 **E. The Incentive Awards are Fair and Reasonable.**

10 “Incentive awards are fairly typical in class action cases.” (*Rodriguez v. W.*
11 *Publ’g Corp.*, 563 F.3d 948, 958 (9th Cir. 2009).) Further, \$5,000 incentive awards like
12 the one requested here are commonplace. (*Chambers v. Whirlpool Corp.*, 2016 WL
13 5922456, at *20 (C.D. Cal. Oct. 11, 2016) (“Many courts in the Ninth Circuit have ...
14 held that a \$5,000 incentive award is ‘presumptively reasonable’”) (citation omitted).)

15 When considering requests for incentive awards, courts may consider the following
16 factors: (1) the risk to the class representative in commencing suit, both financial and
17 otherwise; (2) the notoriety and personal difficulties encountered by the class
18 representative; (3) the amount of time and effort spent by the class representative; (4) the
19 duration of the litigation; and (5) the personal benefit (or lack thereof) enjoyed by the
20 class representative as a result of the litigation. (*Van Vranken v. Atl. Richfield Co.*, 901
21 F. Supp. 294, 299 (N.D. Cal. 1995).) These factors favor the Named Plaintiffs’ incentive
22 award request of \$5,000 each.

23 *First*, the Named Plaintiffs took considerable risks in suing their current employer.
24 They took the risk that their employer would retaliate against them for bringing a lawsuit,
25 economically or within the work environment. (Cole, ¶ 3; McKnight, ¶ 3.)

26 *Second*, the Named Plaintiffs spent considerable time educating Plaintiffs’
27 counsel about the job of SSWs and the innerworkings of Defendants’ Children &
28 Family Services Division and otherwise assisting in prosecution of the action. (Cole, ¶

4; McKnight, ¶ 4; Sim, ¶ 30.) That includes multiple in-person meetings, consistent telephonic, email and text communications, responding to written discovery, and attending two full-day mediation sessions. (*Id.*) The Named Plaintiffs also assisted Plaintiffs' counsel in obtaining declarations in support of preliminary certification. (*Id.*)

Third, this litigation has taken up nearly two years of their lives.

Fourth, the Named Plaintiffs received the same benefits as the rest of the members of the collective action (a \$40,000 settlement payment).

Sixth, the other participating members of the collective action have approved the Named Plaintiffs request for \$5,000 each in incentive awards.

Accordingly, based on these factors, the Court should find the incentive awards are fair and reasonable.

IV. CONCLUSION

For the foregoing reasons, Plaintiffs request that the Court approve the Settlement as "fair and reasonable" and award Plaintiffs' counsel \$250,000.00 in fees and \$12,484.75 in costs and the Named Plaintiffs each \$5,000.00 in incentive awards.

Dated: April 20, 2020

FRANK SIMS & STOLPER LLP

By: /s/ Scott H. Sims
JASON M. FRANK
SCOTT H. SIMS
Attorneys for Plaintiffs and the
FLSA Collective

Exhibit A

STIPULATION OF COLLECTIVE ACTION SETTLEMENT AND RELEASE

This Stipulation of Collective Action Settlement and Release (“Settlement Agreement”) is made and entered into as of 26th day of March, 2020 (the “Execution Date”) by and between Defendant County of Orange (“County”), Named Plaintiffs Luiza Cole and Ruth McKnight, and the Opt-In Plaintiffs (as defined below). The County, Named Plaintiffs, and the Opt-In Plaintiffs are collectively referred to herein as the “Parties.” This Settlement Agreement, which is intended to memorialize the Parties’ Fair Labor Standards Act (“FLSA”) collective action settlement and release, is subject to the terms and conditions set forth below, as well as Court approval.

WHEREAS, Named Plaintiffs brought the Action as a collective action pursuant to the FLSA, 29 U.S.C. § 201 *et. seq.*, alleging the County has failed to pay Named Plaintiffs and other SSWs (as defined below) for the full amount of their overtime hours worked;

WHEREAS, the County denies the allegations, has not conceded or admitted any liability, and has asserted affirmative defenses to the claims asserted against it in the Action;

WHEREAS, neither this Settlement Agreement nor the fact that the County has agreed to settle the claims in the Action shall be construed to be an admission or evidence against the County of wrongdoing or liability or the accuracy of the allegations raised in the Action;

WHEREAS, Named Plaintiffs, Opt-In Plaintiffs, and Plaintiffs’ Counsel have conducted an investigation into the facts and law regarding the Action and have concluded that a settlement with the County according to the terms set forth below is in their best interests;

WHEREAS, the County, despite its belief that it has good defenses to the claims alleged in the Action, has nevertheless agreed to enter into this Settlement Agreement to avoid further expense, inconvenience, and the distraction of burdensome and protracted litigation;

WHEREAS, arm’s-length settlement negotiations have taken place between the Parties and their counsel before a mediator, and this Settlement Agreement embodies all the terms and conditions of the settlement reached as a result of those negotiations;

WHEREAS, it is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge all disputes and claims against the County arising from or related to this Action, and it is the intention of the Parties that this Settlement Agreement shall constitute a full and complete settlement

1 and release of the claims averred against the County in the Action;

2 NOW, THEREFORE, in consideration of the mutual covenants, agreements, and releases set
3 forth herein and for other good and valuable consideration, it is agreed by and among the undersigned
4 that this Action be settled, compromised, and dismissed on the merits with prejudice as to the County,
5 without costs as to Plaintiffs or the County except as otherwise expressly set forth herein, and subject
6 to the approval of the Court, on the following terms and conditions:

7 **A. Definitions**

8 The following capitalized terms, as used in this Settlement Agreement, have the following
9 meanings:

10 1. "Action" means and refers to the putative collective action filed in the United States
11 District Court, Central District of California (Hon. David O. Carter, presiding), under the caption *Cole*
12 *v. County of Orange*, Case No. 8:18-cv-01020-DOC-KES.

13 2. "Administrative Costs" means and refers to costs due to the Claims Administrator for
14 work performed pursuant to section (C)(1)(a)(i)(1) below.

15 3. "Approval Hearing" means and refers to a hearing scheduled before the Court to
16 consider a motion to approve this Settlement Agreement and dismiss the Action.

17 4. "Approved Settlement Amount" means and refers to the actual amount the County pays
18 in settlement of this Action, exclusive of Administrative Costs. This amount may be less than the
19 Maximum Settlement Amount if, for example, the Court disallows or modifies certain requests for
20 fees and costs by Plaintiffs or Plaintiffs' Counsel.

21 5. "Claims Administrator" means and refers to Atticus Administration LLC, a third party
22 retained by Plaintiffs' Counsel to manage and administer (i) the process by which Putative Collective
23 Action Members were notified of the Action and their eligibility to opt-in to the Action; and (ii)
24 distribution of the Approved Settlement Amount paid by the County.

25 6. "Collective Action Notice" means and refers to the notice that was circulated to
26 Putative Collective Action Members by the Claims Administrator on or about July 29, 2019 informing
27 them of this Action and advising them of their eligibility to opt-in to the Action. A copy of the
28 Collective Action Notice is attached hereto as Exhibit A.

1 7. “Collective Action Period” means and refers to the period from three years preceding
2 the filing of the original complaint in this Action up through the date of the Final Order and Judgment.

3 8. “County” means and refers to the County of Orange, the named defendant in this
4 Action.

5 9. “Consent Forms” means and refers to the Plaintiff Consent Form that was included in
6 the Collective Action Notice.

7 10. “Court” means and refers to the United States District Court for the Central District of
8 California.

9 11. “Effective Date” means and refers to the date on which approval of the settlement
10 contained herein is granted by the Court and a Final Order and Judgment is entered.

11 12. “ER” means and refers to the Emergency Response Unit of the Children and Family
12 Services Division of the Orange County Social Services Agency.

13 13. “Final Order and Judgment” means and refers to the final order entered by the Court
14 after the Approval Hearing approving the settlement and entering judgment pursuant to this Settlement
15 Agreement and in accordance with Fed. R. Civ. P. 58. The Parties agree to request entry of the
16 proposed form of the Final Order and Judgment attached hereto as Exhibit B.

17 14. “Gross Individual Settlement Payment Amount” means and refers to the amount of the
18 Maximum Settlement Amount allocated to each Plaintiff, as set forth in Section (C)(1) below.

19 15. “Individual Settlement Payment Amount” means and refers to the amount of each
20 Plaintiff’s Gross Individual Settlement Payment Amount, less employee and employer portions of
21 state and federal withholding taxes and applicable payroll deductions required by law.

22 16. “Maximum Settlement Amount” is the sum of \$873,100.00, as set forth below in
23 Section (C)(1), which, with the exception of the payment of Administrative Costs, represents the
24 maximum amount payable by the County for settlement of this Action, inclusive of all payments to the
25 Plaintiffs, the County’s share of applicable payroll taxes and other required withholdings, attorneys’
26 fees and costs directly related to the Action, and any enhancement fees to Plaintiffs.

27 17. “Named Plaintiff” or “Named Plaintiffs” means and refers to Luiza Cole and Ruth
28 McKnight.

1 18. “Opt-In Plaintiff” or “Opt-In Plaintiffs” means and refers to the 13 individuals that
2 submitted signed Consent Forms to the Claims Administrator in response to the Collective Action
3 Notice. The Opt-In Plaintiffs are Denise Cornejo, Mariela Flores, Martha Garduno, Consuelo Gomez,
4 LaToya McDavis, Daisy (Mejia) Rivera, Sarah Mendoza, Daisy Perez, Linda S. Rodriguez, Maria
5 Ruberio, Charmaine Taguinad, Michelle Tolosa, and Junko Tominaga. Copies of the Opt-In
6 Plaintiffs’ signed Consent Forms, with personal information redacted, are attached hereto as Exhibit
7 C..

8 19. “Payment Due Date” means and refers to thirty (30) days after the Effective Date.

9 20. “Plaintiff” or “Plaintiffs” means and refers to the Named Plaintiffs and Opt-In
10 Plaintiffs, collectively.

11 21. “Plaintiffs’ Counsel” refers to Scott H. Sims and Jason M. Frank of Frank Sims &
12 Stolper LLP and Kristopher P. Badame and Joseph Hunter of Badame Law Group, APC.

13 22. “Putative Collective Action Members” means and refers to the SSWs given notice of
14 this Action and the opportunity to opt-in to the Action via the Collective Action Notice.

15 23. “SSWs” means and refers to individuals employed by the County in the position of
16 Senior Social Worker in the ER at any point during the three years preceding the filing of the Action
17 up to the date of the Collective Action Notice.

18 **B. Litigation Background**

19 1. On June 11, 2018, Named Plaintiff Luiza Cole initiated this Action. A First Amended
20 Complaint adding Named Plaintiff Ruth McKnight was filed on November 30, 2018. Subsequently, a
21 Second Amended Complaint was filed on April 10, 2019. Named Plaintiffs allege one cause of action
22 under the FLSA, 29 U.S.C. § 201 *et. seq.*, against the County for unpaid overtime and off-the-clock
23 work, and seek recovery for backpay, liquidated damages, and other penalties and damages. Named
24 Plaintiffs contend their suit is appropriate for collective action treatment on behalf of SSWs.

25 2. The County denies Named Plaintiffs’ claims, and asserts that, for any purpose other
26 than settlement, the Action is not appropriate for collective action treatment pursuant to 29 U.S.C.
27 §216(b). The County further contends it has complied with the FLSA as relates to all SSWs.
28 Consequently, the County does not believe any liability to Named Plaintiffs, Opt-In Plaintiffs, or other

1 Putative Collective Action Members exists, or that they are entitled to any recovery.

2 3. On May 13, 2019, the Court entered an order conditionally certifying the Action as an
3 FLSA collective action and directed the issuance of notice to Putative Collective Action Members.

4 4. On July 29, 2019, the Claims Administrator mailed the Collective Action Notice to
5 Putative Collective Action Members advising them of the Action and their eligibility to opt-in to the
6 Action. The Opt-In Plaintiffs timely submitted signed Consent Forms to the Claims Administrator.

7 5. On February 5, 2020, the Named Plaintiffs and the County appeared before the Hon.
8 Thierry Patrick Colaw (Ret.) to engage in a mediation of the matter. At the mediation, the Named
9 Plaintiffs and the County agreed to a proposal settling all claims alleged in the Action, embodied their
10 agreement in a short form stipulation of settlement, and agreed to formalize such terms in a long-form
11 settlement agreement.

12 6. Following the mediation, the approval and consent of all Parties have been obtained
13 and the Parties have participated in the drafting of the Settlement Agreement, which is subject to final
14 review and approval by the Court of the terms and conditions therein.

15 **C. Terms of Settlement**

16 1. **Settlement Payment by the County.**

17 a. The County agrees to pay no more than the Maximum Settlement Amount of
18 \$873,100.00. This amount is intended to compensate Plaintiffs for all claims which were raised in this
19 Action, and all costs and expenses incurred therein. The Parties agree, subject to Court approval, to
20 the following allocations of the Maximum Settlement Amount:

21 i. Each Plaintiff is allocated \$40,000.00 of the Maximum Settlement Fund
22 (the Gross Individual Settlement Payment Amount), for a total amount of \$600,000.00 to be allocated
23 to all Plaintiffs for settlement of the Action. This allocation amount is inclusive of the County's share
24 of applicable payroll taxes and any other withholdings required by law.

25 1. The Gross Individual Settlement Payment Amounts shall be
26 apportioned as follows: 50% shall be considered wages to be reported on an IRS W-2 Form, and
27 subject to applicable withholdings, and the remaining 50% shall be attributed to liquidated damages,
28 interest, and/or damages to be reported on an IRS 1099 Form. Plaintiffs shall be solely responsible

1 for all tax obligations, including reporting and payment obligations, that may arise as a consequence
2 of this Settlement Agreement.

3 2. Individual Settlement Payment Amounts paid under this
4 Settlement Agreement shall be considered compensation for disputed hours worked. To the extent the
5 payment of any Individual Settlement Payment Amount results in overpayment of unemployment
6 benefits to Plaintiffs, the amount of any such overpayment shall be the responsibility of Plaintiffs.

7 ii. Each Named Plaintiff may request the Court approve an incentive award
8 of \$5,000.00 (for a collective total of \$10,000.00) for her efforts and service in leading this Action,
9 without objection by the County. The incentive award shall be in addition to each Named Plaintiff's
10 Gross Individual Settlement Payment Amount. Any incentive award approved by the Court for
11 Named Plaintiffs shall be treated as compensation for non-wage related claims, injuries, and
12 reimbursement, and shall be reported on an IRS 1099 without withholdings.

13 iii. Plaintiffs' Counsel may seek an award from the Court not to exceed
14 \$250,000.00 for attorneys' fees associated with prosecuting this Action, without objection by the
15 County.

16 iv. Plaintiffs' Counsel may seek an award from the Court not to exceed
17 \$13,100.00 for litigation costs incurred in prosecuting this Action, without objection by the County.
18 Such litigation costs are inclusive of settlement administration costs.

19 v. Except as otherwise provided herein, each Party will bear its own
20 attorneys' fees and costs.

21 b. If the Court approves a lesser amount for Plaintiffs' Counsel's attorneys' fees
22 and costs or Named Plaintiffs' incentive awards, any amount disallowed or modified by the Court
23 shall be deducted from the Maximum Settlement Amount and shall constitute the Approved
24 Settlement Amount. The Parties agree the Settlement Agreement and all other terms shall remain
25 binding regardless of any such disallowances or modifications.

26 c. The County shall deposit the Approved Settlement Amount with the Claims
27 Administrator by the Payment Due Date.

28 d. The Claims Administrator will be responsible for disbursing the Approved

1 Settlement Amount as and when authorized in this Settlement Agreement and by order of the Court.
2 In compliance with this responsibility, the Claims Administrator shall calculate applicable federal and
3 state deductions and timely provide such information to the Counsel for Parties at least three days
4 prior to distribution of funds. The Claims Administrator will also: (i) no later than fourteen (14) days
5 after the Payment Date, distribute to each Plaintiff his/her Individual Settlement Payment Amount
6 from the Approved Settlement Amount, distribute to Named Plaintiffs any approved incentive awards;
7 and pay Plaintiffs' Counsel attorneys' fees and costs as awarded by the Court; (ii) file and issue any
8 necessary tax reporting documents; (iii) inform the Parties of its fulfillment of the duties imposed by
9 this Settlement Agreement; and (iv) take such other and further action as necessary to effectuate
10 distribution of the Approved Settlement Amount. The County and its Counsel shall bear no
11 responsibility for ensuring distribution by the Claims Administrator of the Approved Settlement
12 Amount (once paid by the County) to Plaintiffs and as among Plaintiffs' Counsel in accordance with
13 the terms of this Settlement Agreement and any order of the Court. Neither Plaintiffs nor Plaintiffs'
14 Counsel shall have any recourse or claim against the County related to distribution of the settlement
15 funds once the County has paid the Approved Settlement Amount in accordance with the terms
16 herewith and any order of the Court. The Administrative Costs shall be borne solely by the County,
17 will be directly billed to and directly paid by the County to the Claims Administrator. The
18 Administrative Costs will be paid separate from and in addition to payment of the Approved
19 Settlement Amount.

20 2. Resolution of the Action and Releases.

21 a. Dismissal with Prejudice. The parties agree that upon Court approval of the
22 Settlement (if such approval is granted), the Court shall dismiss with prejudice the claims in the
23 Action. The parties and further agree to execute any and all documents necessary to effectuate the
24 dismissal. The Parties specifically agree that the dismissal encompasses any and all claims that could
25 otherwise be asserted based on the allegations in the Second Amended Complaint.

26 b. Release By Plaintiffs. Plaintiffs understand and agree that this Settlement
27 Agreement is intended to be a full and complete settlement of all claims asserted in the Second
28 Amended Complaint as well as any and all claims, whether known or unknown, that could otherwise

1 be asserted based on the allegations in the Second Amended Complaint, including without limitation,
2 all claims made in the Action for unpaid overtime, liquidated damages, and attorneys' fees and costs.
3 Accordingly, as of the date of the Final Order and Judgment, Plaintiffs fully and finally release and
4 discharge the County and its former and present parents, subsidiaries, officers, directors, employees,
5 partners, agents, and any other successors, assigns, or legal representatives ("Released Parties") from
6 any and all claims asserted in the Action or those claims that could otherwise be asserted based on the
7 allegations in the Second Amended Complaint, including, whether known or unknown, without
8 limitation, any applicable statutory, constitutional, contractual, or common law claims for wages of
9 any kind (including without limitation any applicable minimum wages, straight time compensation,
10 overtime, time off, or other reimbursements), damages, unpaid costs, penalties, liquidated damages,
11 punitive damages, interest, attorney's fees, litigation costs, restitution, equitable relief, or other relief
12 under the FSLA or any other applicable law, memorandum, union agreement, or contract ("Released
13 Claims"). Plaintiffs expressly acknowledge that the Released Claims include their rights to recover
14 any type of personal relief from the County, including monetary damages, in any administrative action
15 or proceeding, whether state or federal, and whether brought by Plaintiffs or on Plaintiffs' behalf by
16 any administrative agency, related in any way to the matters released herein. Nothing in this Release
17 or Settlement Agreement prohibits Plaintiffs from reporting possible violations of law or regulation to
18 any governmental agency or entity or making other disclosures that are protected under the
19 whistleblower provisions of law.

20 c. Waiver of California Civil Code § 1542. Plaintiffs' Released Claims include all
21 claims, whether known or unknown, related to the claims asserted in the Action. Even if Plaintiffs
22 discover facts in addition to or different from those that they now know or believe to be true with
23 respect to the subject matter of Plaintiffs' Released Claims, those claims will remain released and
24 forever barred. Thus, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits of
25 section 1542 of the California Civil Code, which reads:

26 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
27 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR
28 HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH

1 IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED
2 HIS OR HER SETTLEMENT WITH THE DEBTOR.

3 d. County's Right to Withdraw From Settlement. In the event the Court does not
4 approve the Released Claims or otherwise makes an order inconsistent with the scope of the Releases
5 contained herein, the County has the right to withdraw from the Settlement Agreement. In such case,
6 (i) the Settlement Agreement and any related settlement documents will become null and void, other
7 than the non-admission provisions in Paragraph (C)(4); (ii) neither this Settlement Agreement nor any
8 related settlement document, nor the negotiations leading to the Settlement Agreement, may be used
9 as evidence for any purpose; and (iii) the County shall retain the right to challenge all claims and
10 allegations in the Action, to assert all applicable defenses, and to dispute the propriety of collective
11 certification on all applicable grounds.

12 e. Severability. If any of the provisions, terms, clauses, waivers or releases and
13 rights contained in the Releases in this Paragraph is later declared illegal, unenforceable, or ineffective
14 in a legal forum of competent jurisdiction, such provision, terms, clauses, waivers or releases shall be
15 modified, if possible, in order to achieve, to the extent possible, the broadest relief possible as
16 intended by the parties, and, if necessary, such provisions, terms, clauses, waivers and releases shall
17 be deemed severable, such that all other provisions, terms, clauses, waivers and releases contained in
18 this Paragraph shall remain valid and binding. Notwithstanding any other provision in this Paragraph
19 (C)(2)(e), if any portion of the waiver or release of claims or rights is held to be unenforceable, the
20 County may, at its option, seek modification or severance of such portion, or terminate the Settlement
21 Agreement.

22 f. Each Plaintiff acknowledges he/she has had a full and fair opportunity to
23 consult with counsel of his/her choosing concerning the waivers and releases in this Paragraph (C)(2),
24 and that he or she agrees to the foregoing waivers and releases knowingly and voluntarily, and without
25 any coercion from anyone.

26 3. Certification for Settlement Purposes Only. The Parties stipulate, for settlement
27 purposes only, to FLSA collective action treatment under 29 U.S.C. § 216(b) related to the claims
28 asserted in the Action. The County's stipulation herein shall not be construed as an admission or

1 acknowledgment of any kind that any collective action treatment should occur other than for
2 settlement purposes.

3 4. Non-Admission of Liability. Nothing in this Settlement Agreement, or any
4 communications, papers, pleadings, or orders related to this Settlement Agreement, shall be construed
5 to be or deemed an admission by the County of any liability, culpability, negligence, or wrongdoing
6 toward Plaintiffs, Putative Collective Action Members, SSWs, or any other person, and the County
7 specifically disclaims any such liability, culpability, negligence, or wrongdoing. The County further
8 specifically disclaims that collective action certification is appropriate in this or any other matter
9 (other than as detailed in Paragraph (C)(3) above). Each of the Parties has entered into this Settlement
10 Agreement with the intention to avoid further disputes and litigation with the attendance
11 inconvenience, expenses, and contingencies. This Settlement Agreement and any communications,
12 papers, pleadings, or orders related to this Settlement Agreement may not be cited or otherwise
13 admitted as evidence of liability or that collective action certification is appropriate in this or any other
14 lawsuit. There has been no final determination by any court as to the merits of the claims asserted in
15 this Action against the County or as to whether the claims may proceed to trial on a collective action
16 basis.

17 5. Approval Hearing and Entry of Final Order and Judgment.

18 a. Absent written agreement of counsel to the contrary, no later than thirty (30)
19 days after the latter of (a) County Ratification pursuant to paragraph D(1) herein or (b) the Execution
20 Date, Plaintiffs shall file a motion to approve this Settlement Agreement and dismiss the Action. The
21 motion shall be accompanied by any application by Plaintiffs' counsel for fees and costs.

22 b. At the Approval Hearing, the Parties will request the Court (i) deem the case
23 appropriate for collective action treatment under 29 U.S.C. § 216(b); (ii) enter the proposed form of
24 the Final Order and Judgment attached hereto as Exhibit B; (iii) approve the terms of the Settlement
25 Agreement as a fair, adequate, reasonable, and binding resolution of a bona fide dispute; (iv) award
26 any incentive awards to the Named Plaintiffs; (v) award any attorneys' fees and costs to Plaintiffs'
27 Counsel; (v) dismiss the Action with prejudice; and (vi) enter an order permanently enjoining
28 Plaintiffs from pursuing any of the Released Claims.

1 6. Non-Approval by the Court. In the event this Settlement Agreement is not approved by
2 the Court, fails to become effective, or is otherwise reversed or modified by the Court or any appellate
3 court, then:

4 a. The Settlement Agreement shall have no force or effect, other than the non-
5 admission provisions in Paragraph (C)(4) above.

6 b. The Settlement Agreement shall not be admissible in any judicial,
7 administrative, arbitral, or other proceeding for any purpose or with respect to any issue.

8 c. Any order or judgment entered by the Court in furtherance of this Settlement
9 Agreement shall be treated as void ab initio.

10 d. None of the Parties to this Settlement Agreement will be deemed to have
11 waived any claims, objections, defenses or arguments with respect to any issue in the litigation,
12 including as relates to the issues of collective certification or the running of the statute of limitations
13 on the claims of any Plaintiffs. Each of the Parties shall be deemed to return to their respective
14 positions prior to entering into this Settlement Agreement.

15 **D. Miscellaneous Provisions**

16 1. County Ratification. Plaintiffs expressly acknowledge this Settlement Agreement
17 requires approval and ratification by the County's Board of Supervisors and shall not become
18 effective until such approval and ratification is obtained.

19 2. No Impact on Benefit Plans. Neither the Settlement Agreement nor any amounts paid
20 under the Settlement Agreement will modify any previously credited hours or service under any
21 employee benefit plan, policy, or bonus program offered by the County. Such amounts will not form
22 the basis for additional contributions to, benefits under, or any other monetary entitlement under any
23 benefit plans, policies, or bonus programs offered by the County, unless required by such plans.

24 3. Captions and Titles. Paragraph titles or captions contained herein are inserted as a
25 matter of convenience and for reference, and in no way define, limit, extend or describe the scope of
26 this Settlement Agreement or any provision hereof. Each term of this Settlement Agreement is
27 contractual and not a recital.

28 4. Drafting and Interpretation. The Parties agree that the terms and conditions of this

1 Settlement Agreement are the result of arms-length negotiations between the Parties. Neither Party
2 shall be considered the “drafter” of the Settlement Agreement for purposes of having terms construed
3 in favor or against any Party by reason of the extent to which any Party, or his, her, or its counsel
4 participated in drafting the Settlement Agreement. Any ambiguities or uncertainties herein shall be
5 equally and fairly interpreted and construed without reference to the identity of the Party or Parties
6 who drafted any particular terms.

7 5. No Representations Regarding Tax Consequences. The Parties affirm that they have
8 not relied upon any statement or representation Plaintiffs’ Counsel, the County, any County
9 representative or agent, including the County’s Counsel, regarding the federal or state income tax
10 consequences of the Settlement Agreement to any Party. The Parties expressly acknowledge and
11 agree that they have or will rely solely upon the advice of their own attorneys (independent of
12 Plaintiffs’ Counsel), accountants and/or others as to the tax and benefit consequences of the
13 Settlement Agreement and any payments thereunder.

14 6. Continuing Jurisdiction. The Court shall have continued jurisdiction over the terms
15 and conditions of this Settlement Agreement.

16 7. Modifications. This Settlement Agreement may not be changed, altered, or modified,
17 except in writing and signed by the Parties, and approved by the Court. This Settlement Agreement
18 may not be discharged except by performance in accordance with its terms or a writing signed by the
19 Parties hereto.

20 8. Integration. This Settlement Agreement, including its exhibits, contains the entire
21 agreement between the Parties related to settlement of the Action, and all prior or contemporaneous
22 agreements, understandings, representations, and statements, whether oral or written and whether by a
23 Party or such Party’s legal counsel, are merged herein.

24 9. No Prior Assignments. Plaintiffs hereto represent, covenant, and warrant that they
25 have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
26 encumber to any person or entity any portion of any claim, demand, action, cause of action or rights
27 herein released and discharged except as set forth herein.

28 10. Binding Agreement. This Settlement Agreement shall be binding upon and inure to the

1 benefit of the Plaintiffs hereto and their respective heirs, trustees, executors, administrators and
2 successors. Except as expressly provided herein, this Settlement Agreement is not for the benefit of
3 any person not a Party hereto or any person or entity not specifically identified as a beneficiary herein.

4 11. Cooperation. The Parties agree to fully cooperate with each other to accomplish the
5 terms of this Settlement Agreement, including but not limited to, executing such documents and
6 taking such other action as may be reasonably necessary to implement the terms of this Settlement
7 Agreement. The Parties to this Settlement Agreement shall use their best efforts, including all efforts
8 contemplated by this Settlement Agreement and any other efforts that may become necessary by order
9 of the Court or otherwise to effectuate this Settlement Agreement and the terms set forth herein. As
10 soon as practicable after execution of this Settlement Agreement, Plaintiffs' Counsel shall, with the
11 assistance and cooperation of the County and its counsel, take all necessary steps to secure the Court's
12 approval of this Settlement Agreement.

13 12. Advertising. Plaintiffs' Counsel agree to limit any discussion of the Action and the
14 Settlement Agreement on their websites, social media, or advertising materials to a brief description of
15 the nature of the Action or information in the public record.

16 13. Governing Law. The rights and obligations of the Parties hereunder shall be construed
17 and enforced in accordance with, and shall be governed by, the laws of the United States, without
18 regard to principles of conflicts of law.

19 14. Signatories' Authority. The signatories hereby represent that they are fully authorized
20 to enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions hereof.

21 15. Counterparts. This Settlement Agreement may be executed in counterparts with
22 signatures transmitted by facsimile or as an electronic image, which shall have the same force and
23 effect as an original signature. When each Party has signed and delivered at least one such
24 counterpart, each counterpart shall be deemed an original, and, when taken together with other signed
25 counterparts, shall constitute one Settlement Agreement, which shall be binding upon and effective as
26 to all Parties.

PLAINTIFFS

1

2

3

APRIL 3
DATED: March __, 2020

4

5

6

DATED: March __, 2020

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DATED: March __, 2020

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DATED: March __, 2020

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DATED: March __, 2020

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DATED: March __, 2020

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DATED: March __, 2020

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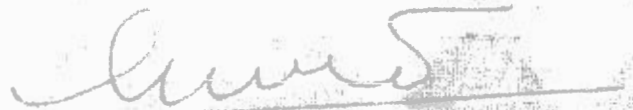
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DATED: March __, 2020

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DATED: March __, 2020



Luiza Cole

Ruth McKnight

Denise Comejo

Mariela Flores

Martha Garduno

Consuelo Gomez

LaToya McDavis

Daisy (Mejia) Rivera

Sarah Mendoza

Daisy Perez

Linda S. Rodriguez

PLAINTIFFS

DATED: March __, 2020

Luiza Cole

DATED: March 31, 2020


 Ruth McKnight

DATED: March __, 2020

Denise Cornejo

DATED: March __, 2020

Mariela Flores

DATED: March __, 2020

Martha Garduno

DATED: March __, 2020

Consuelo Gomez

DATED: March __, 2020

LaToya McDavis

DATED: March __, 2020

Daisy (Mejia) Rivera

DATED: March __, 2020

Sarah Mendoza

DATED: March __, 2020

Daisy Perez

DATED: March __, 2020

Linda S. Rodriguez

DATED: March __, 2020

Maria Ruberio

PLAINTIFFS

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DATED: April __, 2020

Luiza Cole

DATED: April __, 2020

Ruth McKnight

DATED: April 3, 2020



Denise Cornejo

DATED: April __, 2020

Mariela Flores

DATED: April __, 2020

Martha Garduno

DATED: April __, 2020

Consuelo Gomez

DATED: April __, 2020

LaToya McDavis

DATED: April __, 2020

Daisy (Mejia) Rivera

DATED: April __, 2020

Sarah Mendoza

DATED: April __, 2020

Daisy Perez

DATED: April __, 2020

Linda S.Rodriguez

DATED: April __, 2020

Maria Ruberio

PLAINTIFFS

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DATED: April __, 2020

Laiza Cole

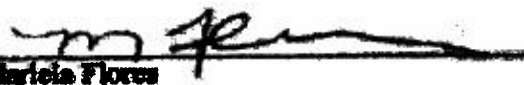
DATED: April __, 2020

Ruth McKnight

DATED: April __, 2020

Denise Cornejo

DATED: April 16, 2020


Mariela Flores

DATED: April __, 2020

Martina Cardoso

DATED: April __, 2020

Consuelo Gomez

DATED: April __, 2020

LaToya McDavis

DATED: April __, 2020

Daisy (Mojia) Rivera

DATED: April __, 2020

Sarah Mendonca

DATED: April __, 2020

Daisy Perez

DATED: April __, 2020

Linda S. Rodriguez

DATED: April __, 2020

Maria Rubenio

PLAINTIFFS

DATED: April __, 2020

Luiza Cole

DATED: April __, 2020

Ruth McKnight

DATED: April __, 2020

Denise Cornejo

DATED: April 7, 2020

Mariela Flores

DATED: April 7, 2020



Martha Garduno

DATED: April __, 2020

Consuelo Gomez

DATED: April __, 2020

LaToya McDavis

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Daisy (Mejia) Rivera

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Sarah Mendoza

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Daisy Perez

DATED: April __, 2020

Linda S.Rodriguez

DATED: April __, 2020

Maria Ruberio

PLAINTIFFS

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DATED: April __, 2020

Luiza Cole

DATED: April __, 2020

Ruth McKnight

DATED: April __, 2020

Denise Cornejo


DATED: April __, 2020

Mariela Flores

DATED: April __, 2020

Martha Garduno

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Consuelo Gomez

DATED: April __, 2020

LaToya McDavis

DATED: April __, 2020

Daisy (Mejia) Rivera

DATED: April __, 2020

Sarah Mendoza

DATED: April __, 2020

Daisy Perez

DATED: April __, 2020

Linda S.Rodriguez

DATED: April __, 2020

Maria Ruberio

PLAINTIFFS

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DATED: April __, 2020

Luiza Cole

DATED: April __, 2020

Ruth McKnight

DATED: April __, 2020

Denise Cornejo

DATED: April __, 2020

Mariela Flores

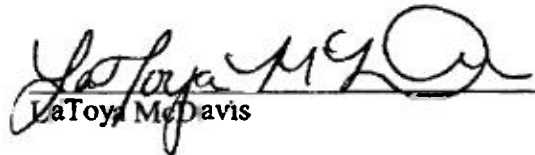
DATED: April __, 2020

Martha Garduno

DATED: April __, 2020

Consuelo Gomez

DATED: April 3, 2020


LaToya McDavis

DATED: April __, 2020

Daisy (Mejia) Rivera

DATED: April __, 2020

Sarah Mendoza

DATED: April __, 2020

Daisy Perez

DATED: April __, 2020

Linda S. Rodriguez

DATED: April __, 2020

Maria Ruberio

PLAINTIFFS

DATED: April __, 2020

Luiza Cole

DATED: April __, 2020

Ruth McKnight

DATED: April __, 2020

Denise Cornejo

DATED: April __, 2020

Mariela Flores

DATED: April __, 2020

Martha Garduno

DATED: April __, 2020

Consuelo Gomez

DATED: April __, 2020

LaToya McDavis

DATED: April 6th, 2020



Daisy (Mejia) Rivera

DATED: April __, 2020

Sarah Mendoza

DATED: April __, 2020

Daisy Perez

DATED: April __, 2020

Linda S.Rodriguez

DATED: April __, 2020

Maria Ruberio

PLAINTIFFS

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DATED: April __, 2020

Luiza Cole

DATED: April __, 2020

Ruth McKnight

DATED: April __, 2020

Denise Cornejo

DATED: April __, 2020

Mariela Flores

DATED: April __, 2020

Martha Garduno

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Consuelo Gomez

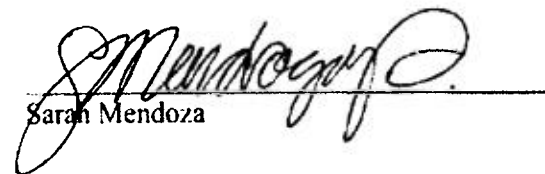
DATED: April __, 2020

LaToya McDavis

DATED: April __, 2020

Daisy (Mejia) Rivera

DATED: April 3, 2020


Sarah Mendoza

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Daisy Perez

DATED: April __, 2020

Linda S. Rodriguez

DATED: April __, 2020

Maria Ruberio

PLAINTIFFS

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Luiza Cole

Ruth McKnight

Denise Comejo

Mariela Flores

Martha Garduno

Consuelo Gomez

LaToya McDavis

Daisy (Mejia) Rivera

Sarah Mendoza

Daisy Perez

Linda S.Rodriguez

Maria Ruberio

1198256.2/81185 05807

PLAINTIFFS

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DATED: April __, 2020

Luiza Cole

DATED: April __, 2020

Ruth McKnight

DATED: April __, 2020

Denise Cornejo

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Mariela Flores

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Martha Garduno

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Consuelo Gomez

DATED: April __, 2020

LaToya McDavis

DATED: April __, 2020

Daisy (Mejia) Rivera

DATED: April __, 2020

Sarah Mendoza

DATED: April __, 2020

Daisy Perez

DATED: April __, 2020



Linda S. Rodriguez

DATED: April __, 2020

Maria Ruberio

PLAINTIFFS

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DATED: April __, 2020

Luiza Cole

DATED: April __, 2020

Ruth McKnight

DATED: April __, 2020

Denise Comejo

DATED: April __, 2020

Mariela Flores

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Martha Garduno

DATED: April __, 2020

Consuelo Gomez

DATED: April __, 2020

LaToya McDavis

DATED: April __, 2020

Daisy (Mejia) Rivera

DATED: April __, 2020

Sarah Mendoza

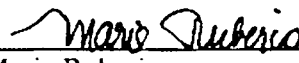
DATED: April __, 2020

Daisy Perez

DATED: April __, 2020


Linda S. Rodriguez

DATED: April 3, 2020


Maria Ruberio

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DATED: April 6, 2020


Charmaine Taguinad

DATED: April __, 2020

Michelle Tolosa

DATED: April __, 2020

Junko Tominga

Approved as to Form.

DATED: April __, 2020

FRANK SIMS & STOLPER LLP

By: _____
Scott H. Sims
Attorneys for Plaintiffs

THE COUNTY

DATED: April __, 2020

Defendant County of Orange

Approved as to Form.

DATED: April __, 2020

THEODORA ORINGER PC

By: _____
Todd C. Theodora
Attorneys for Defendant

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DATED: April __, 2020

Charmaine Taguinad

DATED: April 3, 2020


Michelle Tolesa

DATED: April __, 2020

Junko Tominga

Approved as to Form.

DATED: April __, 2020

FRANK SIMS & STOLPER LLP

By:

Scott H. Sims
Attorneys for Plaintiffs

THE COUNTY

DATED: April __, 2020

Defendant County of Orange

Approved as to Form.

DATED: April __, 2020

THEODORA ORINGHER PC

By:

Todd C. Theodora
Attorneys for Defendant

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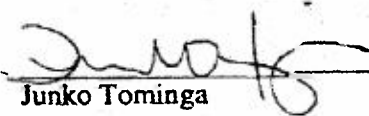
DATED: April __, 2020

Charmaine Taguinad

DATED: April __, 2020

Michelle Tolosa

DATED: April 6, 2020


Junko Tominga

Approved as to Form.

DATED: April __, 2020

FRANK SIMS & STOLPER LLP

By: _____

Scott H. Sims
Attorneys for Plaintiffs

THE COUNTY

DATED: April __, 2020

Defendant County of Orange

Approved as to Form.

DATED: April __, 2020

THEODORA ORINGER PC

By: _____

Todd C. Theodora
Attorneys for Defendant

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DATED: March __, 2020

Charmaine Taguinad

DATED: March __, 2020

Michelle Rolosa


DATED: March __, 2020

Junko Tominga

Approved as to Form.

DATED: April 9, 2020

FRANK SIMS & STOLPER LLP

By: 

Scott H. Sims
Attorneys for Plaintiffs

THE COUNTY

DATED: March __, 2020

Defendant County of Orange

Approved as to Form.

DATED: March __, 2020

THEODORA ORINGER PC

By: _____
Todd C. Theodora
Attorneys for Defendant

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DATED: March __, 2020

Charmaine Taguinad

DATED: March __, 2020

Michelle Rolosa

DATED: March __, 2020

Junko Tominga

Approved as to Form.

DATED: March __, 2020

FRANK SIMS & STOLPER LLP

By: _____

Scott H. Sims
Attorneys for Plaintiffs

THE COUNTY

DATED: April 15, 2020

Defendant County of Orange

Approved as to Form.

DATED: March 27, 2020

THEODORA ORINGER PC

By: _____

Todd C. Theodora
Attorneys for Defendant

Exhibit A

**COURT-AUTHORIZED NOTICE OF FAIR LABOR STANDARDS ACT
CONDITIONAL COLLECTIVE ACTION LAWSUIT**

Please read this entire notice carefully.

This notice is not a solicitation from a lawyer. This notice has been authorized by United States District Judge David O. Carter of the United States District Court for the Central District of California.

IN AUTHORIZING THIS NOTICE THE COURT HAS TAKEN NO POSITION ON THE MERITS OF PLAINTIFFS' CLAIMS OR DEFENDANT'S DEFENSES. PLEASE DO NOT CONTACT THE COURT WITH QUESTIONS REGARDING THIS LAWSUIT.

YOU ARE NOT GUARANTEED ANY MONEY FOR PARTICIPATING IN THIS CASE.

INTRODUCTION

This notice informs you of the existence of a lawsuit which seeks allegedly unpaid overtime wages pursuant to federal law. If you are determined to be eligible, you have the right to participate in this lawsuit, should you choose to do so.

DESCRIPTION OF LAWSUIT

In June 2018, Luiza Cole and Ruth McKnight ("Plaintiffs") filed a lawsuit against the County of Orange (the "County" or "Defendant") in the United States District Court for the Central District of California, Case No. 8:18-cv-01020-DOC-KES. Plaintiffs allege Senior Social Workers ("SSWs") working in the Emergency Response Unit of the Children and Family Services Division of the Orange County Social Services Agency (the "ER") have regularly worked more than forty (40) hours per week, but that the County has failed to pay them all overtime compensation due under the Fair Labor Standards Act, 29 U.S.C. § 216(b) ("FLSA"). Specifically, Plaintiffs claim SSWs worked overtime and did not receive: (a) additional pay calculated at 1 ½ times their regular hourly rate; or (b) 1 ½ hours compensatory time off for each hour worked beyond 40 hours in the work week. Plaintiffs contend the County knew or should have known SSWs in the ER were working uncompensated overtime. Plaintiffs seek unpaid overtime wages, liquidated damages, and attorneys' fees and costs from the County.

The lawsuit is in the early pretrial stages. Neither the mailing of this notice, nor the contents of this notice, should be construed as any expression of any opinion by the Court as to whether any claim or defense asserted in this lawsuit has any merit.

THE COUNTY'S POSITION

The County denies all liability and denies Plaintiffs' allegations that the County violated the FLSA or failed to properly compensate SSWs in the ER for all overtime worked. The County asserts it paid all overtime compensation due to SSWs in the ER.

RIGHT TO JOIN IN THE LAWSUIT

You are eligible to join this lawsuit if you (a) were employed by the County as an SSW working in the ER at any point in time from June 11, 2015 to the present, (b) worked more than 40 hours in a work week during that period, (c) did not receive overtime compensation (either wages or compensatory time off) for all hours worked in excess of 40 hours, and (d) think the County knew or should have known that you worked uncompensated overtime. You are not obligated to join this lawsuit. It is entirely voluntary and your decision.

You may seek to join this lawsuit by mailing, e-mailing, or faxing the attached **Plaintiff Consent Form** to the following address:

Cole v. County Consent Form
c/o Atticus Administration
PO Box 1440
Minneapolis, MN 55440
E-Mail: orangecountyconsent@atticusadmin.com
Fax: 888-326-6411

Your Plaintiff Consent Form must be postmarked or received by October 27, 2019. A pre-addressed, pre-paid envelope is also enclosed with this Notice. Your Plaintiff Consent Form will be filed with the Court.

If you join this lawsuit, you will be bound by any ruling, judgment, or settlement, whether favorable or unfavorable. Thus, if you win, you may be eligible to share in the monetary award, and, if you lose, no money will be awarded and you will not be able to file another lawsuit regarding the matters raised in this case.

While this lawsuit is proceeding, you may need to provide information, have your deposition taken, and/or appear in Court. If so, Plaintiffs' counsel will help you.

By submitting a Plaintiff Consent Form, you designate Plaintiffs' Counsel to represent your interests in this case.

Filing a Plaintiff Consent Form does not guarantee you will be able to participate in the trial of this matter. For current and former SSWs to bring their claims together in a single lawsuit as a collective action under the FLSA, the Court must determine whether ER SSWs are similarly situated with respect to Plaintiffs' claims. The Court has yet to make a ruling on this issue. If you join this lawsuit, your continued participation will depend on whether the Court ultimately finds that ER SSWs are similarly situated with respect to Plaintiffs' claims. A finding that ER SSWs are similarly situated with respect to Plaintiffs' claims is not a ruling that Plaintiffs' claims have or do not have merit. If you choose to join the lawsuit, any continued participation in this lawsuit is dependent on a final determination by the Court that you and your claims are similarly situated to the putative collective.

If you do not wish to participate in this lawsuit you do not need to take any action. If you do not participate you will not be eligible to receive any compensation from the litigation if Plaintiffs prevail on their claims or there is a settlement. If you do not participate in the lawsuit, you will not be affected or bound by any judgment, favorable or unfavorable, on any of the claims brought under the FLSA that are alleged in the action. You will retain all your rights under the FLSA.

NO RETALIATION PERMITTED

The law prohibits retaliation against current or former employees who exercise their rights under the federal labor laws to join this lawsuit. If you join this lawsuit, the County is prohibited by federal law from firing you or taking any other adverse employment actions against you because of your participation in this lawsuit.

YOUR LEGAL REPRESENTATION IF YOU JOIN THE LAWSUIT

If you submit a completed Plaintiff Consent Form and join the lawsuit, your attorneys will be:

Scott H. Sims, Esq.
Jason M. Frank, Esq.
FRANK SIMS & STOLPER LLP
19800 MacArthur Blvd. Suite 855
Irvine, CA 92612
Phone: (949)201-2400
ssims@lawfss.com
jfrank@lawfss.com

Kristopher P. Badame, Esq.
Joseph Hunter, Esq.
BADAME LAW GROUP, APC
9891 Irvine Center Dr.
Suite 200
Irvine, CA 92618
Phone: (949)398-8217
kbadame@badamelawgroup.com
jhunter@badamelawgroup.com

The attorneys listed above, who are representing the Plaintiffs and all eligible ER SSWs who submit completed Plaintiff Consent Forms in this lawsuit, will be paid on a contingency fee basis, which means that, if there is no recovery, you will not have to pay any attorneys' fees or costs and you will not owe the attorneys anything. If there is a recovery, these attorneys may seek attorneys' fees and costs from that recovery or from the County. Any final award of attorneys' fees or costs is subject to approval by the Court.

If you want to pursue a legal claim for overtime violations against the County, you have the right to consult with and hire your own attorney at your own cost, and/or commence your own lawsuit.

DEFENDANT'S ATTORNEYS

The County is represented by the following attorneys:

Todd C. Theodora, Esq.
Panteha Abdollahi, Esq.
Cheryl Priest Ainsworth, Esq.
Michael E. Bareket, Esq.
THEODORA ORINGHER, PC.
535 Anton Blvd., Ninth Floor
Costa Mesa, CA 92626
Phone: (714) 549-6200

THE PLAINTIFF CONSENT FORM APPEARS ON THE NEXT PAGE.

LUIZA COLE, ET. AL v. COUNTY OF ORANGE
United States District Court, Case No. 8:18-cv-01020-DOC-KES
PLAINTIFF CONSENT FORM

1. I consent to join the matter of *Luiza Cole and Ruth McKnight v. County of Orange*, a putative collective action under the Fair Labor Standards Act, 29 U.S.C. § 201 et seq., asserting claims against the County of Orange for unpaid overtime as a Senior Social Worker (“SSW”) in the Emergency Response Unit of the Children and Family Services Division of the Orange County Social Services Agency (“ER”).
2. I consent to be represented by Frank Sims & Stolper LLP and Badame Law Group, APC and to be bound by any ruling, judgment, or settlement, whether favorable or unfavorable.
3. I am currently, or was previously, employed by the County of Orange as a SSW in the ER at some period since June 11, 2015 to the present. During my employment, there were weeks in which I worked over forty (40) hours but did not receive overtime compensation (either wages or compensatory time off) for all hours worked in excess of 40 hours. I think the County knew, or should have known, that I worked overtime that was uncompensated.

Date: _____

YOUR SIGNATURE

YOUR PRINTED NAME

**INFORMATION BELOW THIS LINE WILL BE REDACTED FROM COURT FILINGS.
PLEASE PRINT OR TYPE.**

Address: _____

City, State, Zip: _____

Best Phone Number: _____

Personal E-Mail (Optional):¹ _____

RETURN THIS FORM BY MAIL, FAX OR E-MAIL.

THIS FORM MUST BE POSTMARKED OR RECEIVED BY OCTOBER 27, 2019.

COLE V. COUNTY CONSENT FORM
C/O ATTICUS ADMINISTRATION
PO BOX 1440
MINNEAPOLIS, MN 55440
E-MAIL: ORANGECOUNTYCONSENT@ATTICUSADMIN.COM
FAX: 888-326-6411

¹ (Your email address will not be used for any purpose other than this lawsuit nor shared with any third parties. The County of Orange will not contact you at this email address.)

Exhibit B

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

LUIZA COLE, individually, and on
behalf of all those similarly situated,

Plaintiff,

vs.

COUNTY OF ORANGE,

Defendant.

Case No. 8:18-cv-1020-DOC-(KESx)

Assigned to: Honorable David O. Carter

**[PROPOSED] FINAL ORDER AND
JUDGMENT ON MOTION FOR
APPROVAL OF SETTLEMENT
AND ATTORNEY FEES UNDER
FAIR LABOR STANDARDS ACT**

Complaint Filed: June 11, 2018

Trial Date: August 18, 2020

1 THE COURT, having considered the Motion of Plaintiffs Luiza Cole and Ruth
2 McKnight ("Plaintiffs") for Approval of Settlement and Attorney Fees under the Fair
3 Labor Standards Act (the "Motion"), which was not opposed by Defendant County of
4 Orange ("County"), as well as the terms of the proposed settlement and the evidence
5 submitted in support of the Motion, hereby GRANTS the Motion and enters judgment
6 herein as follows:

- 7
- 8 (1) GRANTS Plaintiffs' Motion for Approval of Settlement and Attorney
9 Fees under the Fair Labor Standards Act;
 - 10 (2) APPROVES of the Stipulation Of Collective Action Settlement And
11 Release as reasonable and enforceable in its entirety;
 - 12 (3) ORDERS County to make the payments and perform the conditions
13 contained within the Stipulation Of Collective Action Settlement And
14 Release within _____ days of the date of this Order;
 - 15 (4) DISMISSES WITH PREJUDICE the action upon County's making said
16 payments;
 - 17 (5) AWARDS Plaintiffs each a separate inventive award of \$_____; and
18 (6) AWARDS Plaintiffs' counsel attorney's fees in the amount of
19 \$_____ and costs in the amount of \$_____.

20
21 IT IS SO ORDERED.

22
23
24 Dated: _____

25 HON. DAVID O. CARTER
26 United States District Judge
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28

Exhibit C

LUIZA COLE, ET. AL v. COUNTY OF ORANGE
United States District Court, Case No. 8:18-cv-01020-DOC-KES
PLAINTIFF CONSENT FORM

1. I consent to join the matter of *Luiza Cole and Ruth McKnight v. County of Orange*, a putative collective action under the Fair Labor Standards Act, 29 U.S.C. § 201 et seq., asserting claims against the County of Orange for unpaid overtime as a Senior Social Worker ("SSW") in the Emergency Response Unit of the Children and Family Services Division of the Orange County Social Services Agency ("ER").
2. I consent to be represented by Frank Sims & Stolper LLP and Badame Law Group, APC and to be bound by any ruling, judgment, or settlement, whether favorable or unfavorable.
3. I am currently, or was previously, employed by the County of Orange as a SSW in the ER at some period since June 11, 2015 to the present. During my employment, there were weeks in which I worked over forty (40) hours but did not receive overtime compensation (either wages or compensatory time off) for all hours worked in excess of 40 hours. I think the County knew, or should have known, that I worked overtime that was uncompensated.

Date: _____

10/15/19

YOUR SIGNATURE

YOUR PRINTED NAME

INFORMATION BELOW THIS LINE WILL BE REDACTED FROM COURT FILINGS.
PLEASE PRINT OR TYPE.

RETURN THIS FORM BY MAIL, FAX OR E-MAIL.

THIS FORM MUST BE POSTMARKED OR RECEIVED BY OCTOBER 27, 2019.

COLE V. COUNTY CONSENT FORM
C/O ATTICUS ADMINISTRATION
PO BOX 1440
MINNEAPOLIS, MN 55440
E-MAIL: ORANGECOUNTYCONSENT@ATTICUSADMIN.COM
FAX: 888-326-6411

¹ (Your email address will not be used for any purpose other than this lawsuit nor shared with any third parties. The County of Orange will not contact you at this email address.)

175571

LUIZA COLE, ET. AL v. COUNTY OF ORANGE
United States District Court, Case No. 8:18-cv-01020-DOK-KES
PLAINTIFF CONSENT FORM

1. I consent to join the matter of *Luiza Cole and Ruth McKnight v. County of Orange*, a putative collective action under the Fair Labor Standards Act, 29 U.S.C. § 201 et seq., asserting claims against the County of Orange for unpaid overtime as a Senior Social Worker ("SSW") in the Emergency Response Unit of the Children and Family Services Division of the Orange County Social Services Agency ("ER").
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Date:

9/23/19

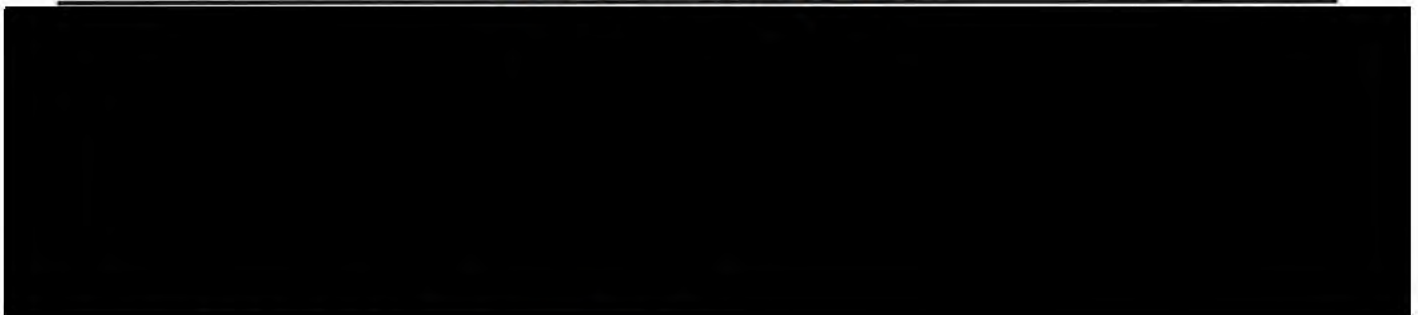


YOUR SIGNATURE

MARIELA FLORES

YOUR PRINTED NAME

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COLE V. COUNTY CONSENT FORM
C/O ATTICUS ADMINISTRATION
PO BOX 1440
MINNEAPOLIS, MN 55440
E-MAIL: ORANGECOUNTYCONSENT@ATTICUSADMIN.COM
FAX: 888-326-6411

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LUIZA COLE, ET. AL v. COUNTY OF ORANGE
United States District Court, Case No. 8:18-cv-01020-DOKES
PLAINTIFF CONSENT FORM

175578

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Date: 10/20/19


YOUR SIGNATURE

Martha Garduno
YOUR PRINTED NAME

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RECEIVED OCT 26 2019

175584

LUIZA COLE, ET. AL v. COUNTY OF ORANGE
United States District Court, Case No. 8:18-cv-01020-DOK-KES
PLAINTIFF CONSENT FORM

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Date:

9-3-19

Consuelo Gomez
YOUR SIGNATURE

Consuelo Gomez
YOUR PRINTED NAME

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LUIZA COLE, ET. AL v. COUNTY OF ORANGE
United States District Court, Case No. 8:18-cv-01020-DOC-KES
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Date: Sept. 2, 2019

LaToya M Davis
YOUR SIGNATURE

LaToya M Davis
YOUR PRINTED NAME

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United States District Court, Case No. 8:18-cv-01020-DOK-KES
PLAINTIFF CONSENT FORM

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Date: 8/4/2019

Daisy Rivera
YOUR SIGNATURE

Daisy Rivera
YOUR PRINTED NAME
previous name: Daisy Mejia

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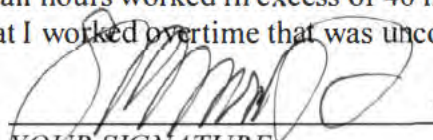
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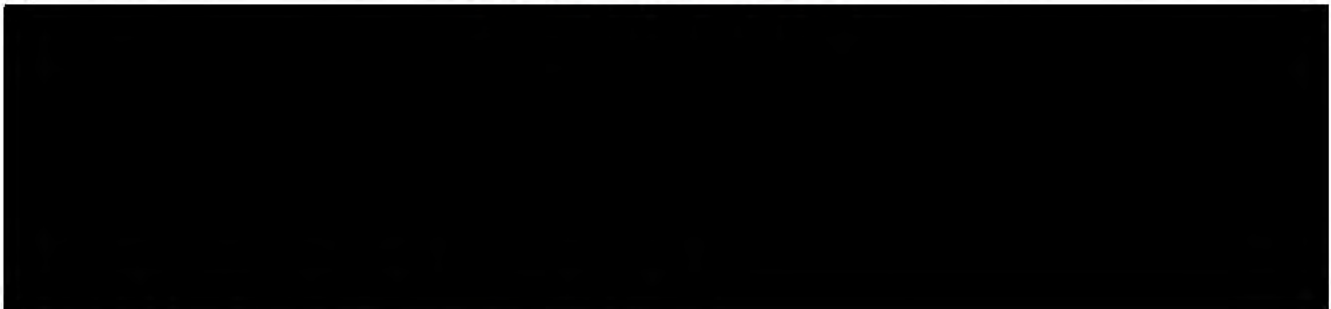
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United States District Court, Case No. 8:18-cv-01020-DOC-KES
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Date: 08/05/2019


YOUR SIGNATURE
Sarah Mendoza
YOUR PRINTED NAME

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RECEIVED OCT 25 2019

175636

LUIZA COLE, ET. AL v. COUNTY OF ORANGE
United States District Court, Case No. 8:18-cv-01020-DOC-KES
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Date: _____

10/21/19

YOUR SIGNATURE

Daisy Perez
PRINTED NAME

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United States District Court, Case No. 8:18-cv-01020-DOC-KES
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Date:

9/26/2019


YOUR SIGNATURE

Linda S. Rodriguez
YOUR PRINTED NAME

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Date: 8/4/19

Maria Ruberio
YOUR SIGNATURE

Maria Ruberio
YOUR PRINTED NAME

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United States District Court, Case No. 8:18-cv-01020-DOK-KES
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Date: 8/30/19


YOUR SIGNATURE

Charmaine Taguinord
YOUR PRINTED NAME

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LUIZA COLE, ET. AL v. COUNTY OF ORANGE
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Date: _____

8-8-19


YOUR SIGNATURE

Michelle Tolosa
YOUR PRINTED NAME

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Date: _____

10-17-19

YOUR SIGNATURE

Junko Tominaga

YOUR PRINTED NAME

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